



NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION

DANIEL L. BRENNER SENIOR VICE PRESIDENT, LAW & REGULATORY POLICY

1724 MASSACHUSETTS AVE N.W. WASHINGTON, D.C. 20036-1903

TEL: 202.775.3664 FAX: 202.775.3603

August 28, 2002

EX PARTE

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Digital Must Carry
CS Docket No. 98-120

Dear Ms. Dortch:

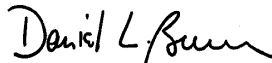
I write regarding the issues of the definition of “primary video.” In support of their arguments for an expansive redefinition of primary video, some broadcasters claim that if a cable operator carries a broadcaster’s high definition signal during prime time and only a single standard definition signal during non-prime time hours, the remaining cable capacity during times when the broadcaster is multicasting would otherwise go unused. *See, e.g.,* Ex Parte Notice, Docket No. 98-120, filed by APTS and CPB, dated May 9, 2002. This Ex Parte states: “As we understand it, cable operators cannot or will not dynamically reallocate the spectrum that is unused during a multicast period.” This understanding is not correct.

The notion that this valuable cable bandwidth would lie fallow is incorrect and already has been refuted in the record. *See, e.g.,* Ex Parte Notice, filed by counsel for Bloomberg L.P., dated June 5, 2002 (“technology already exists, from at least one company called BigBand, that allows cable systems to dynamically reallocate the spectrum that is unused during a multicast period.”) Enclosed are several articles from *Multichannel News* that further explain this technique. This technique allows cable operators to recapture and reuse this digital cable capacity. Bandwidth-management technology developed by BigBand Networks Inc. and others use video statistical remultiplexing to allow cable operators to adjust bandwidth among channels to fit usage demands.

Thus, contrary to the broadcaster's assertion, technology exists that will enable operators, during hours when broadcasters do not offer high definition programming, to deploy bandwidth space, beyond the amount needed to carry a single standard definition broadcast signal, to other valuable uses. Maintaining the existing definition of "primary video" will ensure that operators can manage their bandwidth in a way that best serves their customers.

Should you have any questions, please contact me.

Sincerely,


Daniel L. Brenner

Enclosures

cc: The Honorable Michael K. Powell
The Honorable Kathleen Q. Abernathy
The Honorable Michael J. Copps
The Honorable Kevin J. Martin
Susan M. Eid, Legal Advisor to the Chairman
Stacy Robinson, Legal Advisor to Commissioner Abernathy
Alexis Johns, Legal Advisor to Commissioner Copps
Catherine C. Bohigian, Legal Advisor to Commissioner Martin
W. Kenneth Ferree, Chief, Media Bureau
Rick Chessen, Associate Bureau Chief, Digital Television Task Force